

REPORT OF THE ORGANIZED MEDICAL STAFF SECTION

Stephen Coccaro, MD, Councilor

Council Meeting . May 30, 2019

OMSS Business Meeting, April 11, 2019, Tarrytown

At the meeting, we discussed the Bylaws resolution adding vote to the OMSS Councilor's voice. This resolution, recommended for adoption by the Bylaws Committee, was brought up for a vote at the HOD and was subsequently adopted.

I spoke about IPANS (IPA Nassau Suffolk), a group of 2,000 members that I feel would see benefits in being represented in MSSNY through OMSS. I have been in touch with their leader, John Franco, MD. This might be a good group to make use of MSSNY's new Sponsorship plan, and we are looking into this.

Resolution to AMA-OMSS A-19

I will be attending A-19, both OMSS and AMA, and we discussed issues I could introduce there, including the decline in protection offered to medical staffs by hospital leaderships, the opportunity for medical staffs to function outside of the hospital (e.g. in OMSS), how private equity is changing medicine and the need for MSSNY to educate its membership on this matter, the importance of collectivization, and the need to challenge non-compete clauses. Based on this last idea, I have submitted a resolution to AMA-OMSS, entitled "Restrictive Covenants of Large Health Care Systems" (below).

OMSS Governing Council elections

OMSS elections are due, and I would like to get more people involved. In the past year, MSSNY reached out to medical staff presidents to increase involvement, but with little success. We have been looking for new members for our Governing Council, and are pleased to welcome a new member-at-large, Dr. Dan Gold.

Resolution

Restrictive Covenants of Large Health Care Systems

Submitted to American Medical Association Organized Medical Staff Section A-19

By: Stephen Coccaro, MD

Whereas, in 1960 the AMA made the following statement about Restrictive Covenants (RCs):
"There is no ethical proscription against suggesting or entering into a reasonable agreement not to practice within a certain area for a certain time, if it is knowingly made, understood and consistent with local law." and

Whereas, RCs are prohibited among lawyers in the U.S. with the American Bar Association in 1969 adopting a code of professional conduct that included a disciplinary rule prohibiting RCs between attorneys, using the logic that RCs interfere with the client's freedom to choose a lawyer; and

Whereas, the majority of RCs in the past were written to protect small physician practices and were of a reasonable geographic restriction; and

Whereas, with the trend of more physicians becoming contract employees entering into written agreements with their employers, contractual disputes will become a reality for an increasing number of physicians; and

Whereas, more and more hospitals are merging to form larger and larger health care systems with more and more control of patient lives over a wider and wider geographic region; and

Whereas, these health care systems are now writing in to their RCs restrictions on working for any of their other facilities within their own system as well as a competing health care system's facilities; and

Whereas, as physicians are terminated from these large health care systems they may effectively be banned from very large geographic areas, forcing them to relocate and incur much hardship; therefore be it

RESOLVED, the AMA, through its Organized Medical Staff Section, educate physicians entering into employment contracts with large health care system employers on the dangers of these aggressive restrictive covenants; and be it further

RESOLVED, the AMA, through its legal counsel, review and update the AMA's official position on restrictive covenants.